

AUG 22 2019

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BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS

In re: Matt Shirk,
Respondent.

Complaint No. 15-002R

JOINT STIPULATION OF FACT, LAW, AND RECOMMENDED ORDER

Respondent, Matt Shirk, and the Advocate for the Florida Commission on Ethics enter into this Joint Stipulation of Fact, Law, and Recommended Order with respect to the above-styled Complaint. Subject to acceptance by the Commission on Ethics, the parties agree that they enter into this stipulated settlement in lieu of further hearings in this cause. The parties stipulate as follows:

STIPULATED FINDINGS OF FACT

1. Respondent served as the Public Defender for the Fourth Judicial Circuit of Florida and, therefore, is subject to the provisions of the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, Florida Statutes.

2. On January 9, 2015, a referral by William P. Cervone, State Attorney of the Eighth Judicial Circuit was filed with the Commission on Ethics alleging that Respondent violated the Code of Ethics.

3 Pursuant to Section 112.322, Florida Statutes, the Executive Director of the Commission on Ethics found that the Referral was legally sufficient and ordered a preliminary investigation of the Referral for a probable cause determination of whether Respondent had violated the Code of Ethics. The Report of Investigation was released on April 6, 2016.

4. On June 8, 2016, the Commission on Ethics found probable cause to believe Respondent had violated Sections 112.313(6) and 112.313(8), Florida Statutes.

The allegations are:

- I. Respondent violated Section 112.313(6), Florida Statutes, by hiring or directing the hiring of three women contrary to procedure, policies, or qualifications, or outside of normal hiring practices, engaging in workplace or work-related interactions with them of personal interest to himself and unrelated or marginally related to the function of the Public Defender's Office, and terminating them or having them terminated from their employment at the Public Defender's Office for the private benefit of himself, his wife, and their marriage.
 - II. Respondent violated Section 112.313(6), Florida Statutes, by serving or consuming alcoholic beverages in a City building (offices of the Public Defender) contrary to a City Code provision.
 - III. Respondent violated Section 112.313(8), Florida Statutes, by revealing information relating to the representation of a client, obtained in his capacity as Public Defender, via an interview he gave to a documentary crew interested in the client's case.
5. Respondent admits the facts as set forth in the Report of Investigation, which is incorporated by reference into this Joint Stipulation,¹ for the purposes of this settlement only.

STIPULATED CONCLUSIONS OF LAW

6. Respondent is subject to the provisions of Part III, Chapter 112, Florida Statutes, the Code of Ethics for Public Officers and Employees.
7. The Commission on Ethics has jurisdiction over the Complaint as filed in this proceeding and over Respondent.
8. Respondent admits all of the allegations as set forth in paragraph four (4) of the Stipulated Findings of Fact, above.
9. Respondent violated 112.313(6), Florida Statutes, by hiring or directing the hiring of three women contrary to procedures, policies, or qualifications, or outside of normal hiring practices, engaging in workplace or work-related interactions with them of personal interest to himself and unrelated or marginally related to the function of the Public Defender's Office, and

¹ Respondent denies that the facts indicate a violation of the Florida Bar Rules.

terminating them or having them terminated from their employment at the Public Defender's Office for the private benefit of himself, his wife, and their marriage.

10. Respondent violated Section 112.313(6), Florida Statutes, by serving or consuming alcoholic beverages in a City building (offices of the Public Defender) contrary to a City Code provision.

11. Respondent violated Section 112.313(8), Florida Statutes, by revealing information relating to the representation of a client, obtained in his capacity as Public Defender, via an interview he gave to a documentary crew interested in the client's case.

12. Respondent enters into this Stipulation with the understanding of the seriousness of the allegations and gives his assurance that this proceeding has affected the manner in which he conducts himself as a public official in a positive way.

STIPULATED RECOMMENDED ORDER

13. The Advocate accepts Respondent's admission in this proceeding.

14. The Advocate and Respondent have entered into this Joint Stipulation and urge the Commission on Ethics to approve it in lieu of further hearings in this cause.

15. Therefore, the parties request and the Advocate recommends that:

(a) The Commission on Ethics approve this Joint Stipulation, embodying the stipulations, admissions, and recommendations of the parties;

(b) The Commission on Ethics enter a Final Order and Public Report finding that Respondent violated Sections 112.313(6) and 112.313(8), Florida Statutes, and recommending:

Public censure and reprimand of Respondent

A civil penalty of:

\$2,500 for Allegation I,
\$1,000 for Allegation II,
\$2,500 for Allegation III,
For a total civil penalty of \$6,000.

FURTHER STIPULATIONS

16. Respondent and the Advocate stipulate and covenant that they have freely and voluntarily entered into this Joint Stipulation of Fact, Law, and Recommended Order with full knowledge and understanding of its contents. Respondent and the Advocate further stipulate and covenant that this Joint Stipulation constitutes the full agreement of the parties and that there are no oral or written understandings between the parties other than those contained in this Stipulation of Fact, Law, and Recommended Order.

17. Respondent and the Advocate stipulate and covenant that, in consideration of the provisions of this Joint Stipulation of Fact, Law, and Recommended Order, they accept and will comply with the above-referenced Final Order and Public Report of the Commission on Ethics.

18. Respondent and the Advocate stipulate that this Joint Stipulation of Fact, Law, and Recommended Order is submitted to the Commission on Ethics for its consideration and ratification. In the event that it is not approved by the Commission on Ethics as written, this document shall be of no purpose and effect and shall not be deemed an admission by Respondent.

19. Effective upon approval of this Joint Stipulation of Fact, Law, and Recommended Order by the Commission on Ethics, Respondent waives all time, notice, hearing rights,

requirements, and entitlements, as to all subsequent hearings in this proceeding.

Signed, dated and entered into:

this 22nd day of August, 2019.

this 21 day of August, 2019.

Elizabeth A. Miller
Elizabeth A. Miller
Advocate for the Florida
Commission on Ethics
Florida Bar No. 578411
Office of the Attorney General
The Capitol, PL-01
Tallahassee, Florida 32399-1050

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Matt Shirk, Esquire
Respondent
Florida Bar No. 195911
25 North Market Street
Jacksonville, Florida 32202-2802